

SECOND REGULAR SESSION

# HOUSE BILL NO. 1275

## 91ST GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE SECREST.

Pre-filed December 18, 2001, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

3362L.011

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### AN ACT

To repeal section 287.067, RSMo, and to enact in lieu thereof one new section relating to workers' compensation.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 287.067, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 287.067, to read as follows:

287.067. 1. In this chapter the term "occupational disease" is hereby defined to mean, unless a different meaning is clearly indicated by the context, an identifiable disease arising with or without human fault out of and in the course of the employment. Ordinary diseases of life to which the general public is exposed outside of the employment shall not be compensable, except where the diseases follow as an incident of an occupational disease as defined in this section. The disease need not to have been foreseen or expected but after its contraction it must appear to have had its origin in a risk connected with the employment and to have flowed from that source as a rational consequence.

2. An occupational disease is compensable if it is clearly work related and meets the requirements of an injury which is compensable as provided in subsections 2 and 3 of section 287.020. An occupational disease is not compensable merely because work was a triggering or precipitating factor.

3. "Loss of hearing due to industrial noise" is recognized as an occupational disease for purposes of this chapter and is hereby defined to be a loss of hearing in one or both ears due to prolonged exposure to harmful noise in employment. "Harmful noise" means sound capable of producing occupational deafness.

4. "Radiation disability" is recognized as an occupational disease for purposes of this chapter and is hereby defined to be that disability due to radioactive properties or substances or

19 to Roentgen rays (X rays) or exposure to ionizing radiation caused by any process involving the  
20 use of or direct contact with radium or radioactive properties or substances or the use of or direct  
21 exposure to Roentgen rays (X rays) or ionizing radiation.

22 5. Disease of the lungs or respiratory tract, hypotension, hypertension, or disease of the  
23 heart or cardiovascular system, including carcinoma, may be recognized as occupational diseases  
24 for the purposes of this chapter and are defined to be disability due to exposure to smoke, gases,  
25 carcinogens, inadequate oxygen, or psychological stress of firefighters of a paid fire department  
26 if a direct causal relationship is established.

27 6. Any employee who is exposed to and contracts any contagious or communicable  
28 disease arising out of and in the course of his or her employment shall be eligible for benefits  
29 under this chapter as an occupational disease.

30 7. With regard to occupational disease due to repetitive motion, if the exposure to the  
31 repetitive motion which is found to be the cause of the injury is for a period of less than three  
32 months and the evidence demonstrates that the exposure to the repetitive motion with a prior  
33 employer was the substantial contributing factor to the injury, the prior employer shall be liable  
34 for such occupational disease.

35 **8. In any proceeding pursuant to this section, the employee, the last employer, and**  
36 **any prior employer shall have the right to join any prior employer in the principal case as**  
37 **an alleged employer for the purpose of determining whether or not there was a repetitive**  
38 **motion exposure which was the dominant substantial contributing factor to the injury**  
39 **during the employment of such employee, all such matters to be tried in one hearing in**  
40 **which the division shall have exclusive jurisdiction of the parties and the subject matter**  
41 **to determine these issues. Upon a hearing, the administrative law judge, or the parties, as**  
42 **they may otherwise agree, shall determine which of the employers was the last employer**  
43 **in which there was an occupational disease which was the dominant substantial**  
44 **contributing factor to the injury the employee sustained and, in the event of a voluntary**  
45 **payment, shall order reimbursement by such employer or its insurer. The employee shall**  
46 **cooperate in all phases of such hearing, giving testimony as is necessary to determine the**  
47 **issues. Should the employee fail to cooperate in being willing to testify to the essential facts,**  
48 **the administrative law judge shall suspend all rights to benefits pursuant to this chapter**  
49 **unless and until the employee so cooperates. If the employee fails to cooperate within a**  
50 **period of six months after being ordered to do so by the administrative law judge, such**  
51 **employee's case shall be automatically dismissed with prejudice as to any rights pursuant**  
52 **to this chapter.**

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54 **An employer who has paid benefits to the employee can sue the employee pursuant to any**

55 civil remedy available upon the property, both real and personal, of the employee, to satisfy  
56 any payments made by said employer to said employee under such circumstances,  
57 notwithstanding the provisions of subsection 1 of section 287.260.